

NATIONAL DEVELOPMENT COMPANY, PETITIONER, VS. ROBERTA RONGAVILLA AND THE WORKMEN'S COMPENSATION COMMISSION, RESPONDENTS.

G.R. No. 21963. August 30, 1967

Ponente: ZALDIVAR, J.

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ZALDIVAR, J.:

This is a petition for certiorari to review the decision rendered on June 10, 1963 by the Workmen's Compensation Commission, and the resolution of said Commission en banc dated September 24, 1963 denying petitioner's motion for reconsideration, in RO4-WC Case No. 928.

Respondent Roberta Rongavilla, hereinafter re-ferred to as employee, had been employed by the petitioner, National Development Company, hereinafter re-ferred to as the NDC, in its textile mills since October 23, 1946 until June 11, 1951 when she was separated from the service by reason of ill health. The employee worked as a pirm winder from March 15, 1948 to June 11, 1951, eight hours a day, six days a week, on a rotating weekly shifts of from 6:00 a.m. to 2:00 p.m., from 2:00 p.m. to 10:00 p.m., and from 10:00 p.m. to 6:00 a.m. The employee's work consisted mainly in operating the pirm winding machine which had twenty spindles that wind the yarn. When the yarn snapped the spindle would stop spinning and the employee would connect the broken yarn and start the spindle again. Because of the frequent breakage of the yarn the employee had to be on her feet most of the time, connecting the broken yarns and start-ing the machine. In addition to operating the machine the employee, from time to time, had to get from the spinning department the supply of yarn which she loaded on a cab about one-half meter square with four wheels. When no bobbin boys were available, the employee had to push the cab herself. After the yarn was wound into thread, the finished thread was again loaded on a cab and brought to the warp section.

On October 16, 1950, the employee was examined at the Quezon Institute and was found to have pulmonary lesions in the minimal stage, right and left. The employee was advised by the NDC physician to rest for three months - which she did - and thereafter she returned to work. On March 19, 1951, the employee returned to the Quezon Insti-tute, complaining of chest and back pains with coughing. She was again subjected to an X-ray examination, and the findings indicated that the lesions in the left lung had progressed into a moderately advanced stage. Thereafter, the employee underwent extensive treatment at the Quezon Institute.

On June 11, 1951, the services of the employee were terminated by the NDC on account of her pulmonary illness.

On May 31, 1960, after almost nine (9) years from the time when she was discharged by the NDC, the employee, through counsel, filed with the Regional Office No. 4 of the Department of Labor, Manila, a claim for disability compensation because of pulmonary tuberculosis.

After due hearing, the Hearing Officer of the Regional Office No. 4, rendered a decision on September 21, 1961, awarding disability compensation to the employee. On November 11, 1961, the NDC filed with the Workmen's Compensation Commission a petition for review of the de-cision of the Hearing Officer. On June 10, 1963,

Commissioner N. Baens del Rosario rendered a decision for the Workmen's Compensation Commission upholding the compensability of the disability of the employee, and ruling at the same time that the acceleration of a sickness of the employee is a ground for compensation. The decision ordered the NDC:

- "1. To pay the claimant through the Commission the amount of THREE THOUSAND PESOS (P3,000.00) in one lump sum and without any reduction;
- "2. To pay claimant's legal counsel the amount of TWO HUNDRED TWENTY FIVE PESOS (P225.00) as attorney's fees; and
- "3. To pay to the Workmen's Compensation Fund the amount of THIRTY SIX PESOS (P36.00) as decision fee and P5.00 as cost of this review pursuant to Sec. 55 of the Workmen's Compensation Act, as amended."

On July 8, 1963, the NDC filed a motion for reconsideration of the decision of June 10, 1963, above-mentioned. On September 24, 1963, the Workmen's Compensation Commission en banc denied the motion for reconsideration.

Not satisfied with the decision and the resolution, mentioned in the preceding paragraph, the NDC appealed to this Court.

It is argued by the NDC in the present appeal:

- (1) that the Workmen's Compensation Commission erred in holding that the illness of the employee due to tuberculosis and the aggravation of that illness, which had taken place before the enactment of Republic Act 772 (which amended Act 3428), is a ground for disability compensation; and
- (2) that the Workmen's Compensation Commission had no jurisdiction to entertain the employee's claim for compensation because the claim was not filed in accordance with the provisions of Section 24 of Act 3428 (the Workmen's Compensation Law).

1. In connection with the first ground it raised, the NDC contends that when the employee contracted tuberculosis, and during the period when that ailment was aggravated, Section 2 of Act 3428 did not provide that tuberculosis was a sickness that was compensable, and that the aggravation of that sickness due to the nature of the employment was not a ground for compensation. The NDC points out that the employee was separated from the service on account of her sickness of tuberculosis on June 11, 1951, and it was not until June 20, 1952 when Section 2 of Act 3428 was amended so as to provide that an employee, who "contracts tuberculosis... caused by such employment" or whose tuberculosis or illness is "aggravated by... the nature of such employment,...", would be entitled to compensation. The NDC maintains that the amendments to Section 2 of Act 3428 should not be applied retroactively to the disability of the employee that occurred prior to June 20, 1952.

The contention of the NDC can not be sustained. It must be considered that even before Republic Act 772 took effect on June 20, 1952, it was already provided in Section 2 of Act 3428 that an employee is entitled to compensation if he "contracts any illness directly caused by such employment, or the result of the nature of such employment." [1] In other words, even before Republic Act 772 went into effect on June 20, 1952 if it was shown that an employee contracted an illness - be it tuberculosis or any other illness - caused by the employment or is the result of the nature of the employment, such employee is entitled to compensation. [2] The findings of the Workmen's Compensation Commission is that the employee in the case now before Us became sick of tuberculosis because of the nature, or as a result, of her employment. We reproduce here the pertinent portion of the decision of the Workmen's Compensation Commission:

"It should be recalled that it was on October 10, 1950 when the claimant was first found afflicted with minimal pulmonary tuberculosis and because of which she was advised by the company physician to rest for three

months. While the re-cords do not indicate the specific date she returned to work, she must have return-ed sometime in January of 1951. Barely two months later, on March 19, 1951, her lesions were found to be in the moderately advanced stage. Such rapid acceleration of claimant's illness could not be attributed to any other cause except that of the nature of her work inasmuch as there was no evidence in the record of causal relationship other than that of her employment. The flare up of her illness usually occurred after the brief period of return to work. It cannot be denied that claimant's work required her to be constantly on her toes and involved a lot of exertion of energy. As long as the machine was in operation she could not take even a brief rest from her labor. There is also evidence that from 1949 to 1950, the claimant worked on a quota basis, meaning to say that if claimant could finish more than her al-loted quota of work, she was paid extra for that. Furthermore, we should not lose sight of the fact that the claimant worked alternate-ly in three rotating shifts, as a result of which she had to be on duty two-thirds of the time from late afternoon till early morning. We have time and again made observations on the debilitating effect of night work upon the constitution of a worker particularly women. In fact all labor laws protecting women and minors allow night work in a very limited degree considering the dual nature of a woman's work - the uncompensated task at home and employment in a factory."

The foregoing findings of the Workmen's Compensation Commission are sufficient grounds to declare the employee herein entitled to compensation. The fact that at the time said employee contracted tuberculosis the word "tubercu-losis" and the phrase "aggravated by" (the nature of employ-ment) were not yet inserted in Section 2 of Act 3428 is of no moment as far as the right of the employee to compensation in the present case is concerned. What matters is that the illness of the employee was caused by the employment or was the result of the nature of the employment. The following ruling of this Court in the case of *Blue Bar Coconut Company, et al. vs. Joaquin Boo*, 95 Phil. 867, 873-874 (G. R. No. L-6820, September 28, 1952) has settled this question:

"The fact that the term 'tuberculo-sis' and the words 'either aggravated by' are inserted by Republic Act No. 772, amending section 2 of the Workmen's Com-pensation Act (No. 3428, as amended), which took effect on 20 June 1952 only, does not change the import of the legal provisions concerning the employer's liability to give compensation to a laborer who was disabled by an ailment which was the result of the nature of his work or employment, as pro-vided for in the original Workmen's Compen-sation Act (No. 3428, as amended by Act No. 3812). As already stated, if the claimant was not infected when in 1946 he was engaged by the company as a dryer man in its factory and he contracted the disease after the accident in October 1948, from which he completely recovered according to the company's physician, it is a logical inference that he contracted the illness as a result of the nature of his work or employment. There is no need for the amendatory terms of section 2 inserted by Republic Act No. 772, except for the purpose of clarification, because under the terms of the original section 2 of Act No. 3428, as amended by Act No. 3812, the com-pany is liable to pay the compensation therein provided."

The foregoing ruling was re-stated in the decision of this Court in the case of *Manila Railroad Company v. Daniel Perez and Workmen's Compensation Commission*, G. R. No. L-21071, promulgated on June 29, 1965.

2. Going to the second ground raised by the NDC, the record shows that the action for compensation was filed by the employee before the Workmen's Compensation Commission, on May 31, 1960, or almost nine years after she was discharged from her employment by the NDC on ac-count of her illness. It also appears that the employee failed to file her claim for compensation with the NDC within two months from the date of her discharge from employment because of her illness. Discussing this point, the NDC contends that the Workmen's Compensation Commission erred in not holding that the filing of written claim for compensation within the period prescribed under section 24 of Act 3428 is a condition precedent and a jurisdictional requirement which must be complied with in order to maintain compensation proceedings under the said Act, and that because the employee failed to comply with said requirements the Workmen's Compensation Commission has no, and could not have acquired, juris-diction over the instant case.

Petitioner's contention has no merit. It is now a very well settled rule that failure on the part of the employee to comply with the requirements of Section 24 of Act 3428 - that is, the giving of notice to, and the filing of claim with, the employer, within the time prescribed in said section - is non-jurisdictional. It is also a settled rule that failure or delay in giving notice to the employer, as provided in Section 24 of the law, shall not be a bar to the proceedings in the claim for compensation if it is shown that the employer, his agent or representative, had knowledge of the injury, sickness, or death, or that the employer did not suffer by such delay or failure. And then, it is likewise the settled rule that even if a claim for compensation is filed beyond the period prescribed in Section 24 of Act 3428, when it is shown that the employer has not manifested to the Workmen's Compensation Commission his intention to controvert the right to compensation, either on or before the fourteenth day of disability or within ten days after he has knowledge of the accident, the Workmen's Compensation Commission can proceed to determine and decide the claim for compensation (*Manila Railroad Company v. The Workmen's Compensation Commission and Ricardo Balmeo*, G.R. No. L-21902, August 10, 1967).[3]

The record shows that it was on October 16, 1950, when the employee was first found to be afflicted with minimal pulmonary tuberculosis and because of which she was advised by the NDC's physician to rest for three months, which she did. After sometime the employee returned to work, and she was made to work by the NDC inspite of the fact that at that time it was already known by NDC management that the employee was suffering from pulmonary lesions. It is clear that even before the actual date of her discharge from employment on June 11, 1951 by reason of her illness the NDC had full knowledge of the illness, and inspite of this knowledge the NDC did not file the required employer's report of accident or sickness as provided for in section 37 of Act No. 3428 as amended, as well as the notice of its intention to controvert the right to compensation as provided for in section 45 of the same Act, and neither did the NDC seek the re-instatement of its right to controvert. It is clear, therefore, that for having failed to controvert the right of the employee to compensation within the period prescribed in section 45 of Act No. 3428 and for having failed to seek reinstatement of its right to controvert, the NDC is considered, under the law, as having renounced its right to controvert the right of the employee to compensation, and the NDC cannot now contest the employee's claim upon the ground of the employee's failure to comply with the requirements of Section 24 of Act 3428, as amended.

It is the employer that must comply strictly with the requirements of the law regarding the giving of notice of accident, injury or sickness of his/its employee to the Workmen's Compensation Commission, and of his/its intention to controvert the right of the injured or disabled employee to compensation within fourteen days after his/its knowledge of the employee's disability, or within ten days after his/its knowledge of any accident that caused injury to the employee; and failure of the employer, or of the insurance carrier, to comply with this requirement of the law shall constitute a renunciation of his/its right to controvert the claim, unless he/it submits reasonable grounds for the failure to make the required report and notice of controversion to the Workmen's Compensation Commission, on the basis of which grounds the Workmen's Compensation Commission may reinstate his/its right to controvert. (*Manila Railroad Company v. Workmen's Compensation Commission and Ricardo Balmeo*, supra).

It appearing that the NDC in the present case had not complied with its obligation under the law, as pointed out in the preceding paragraphs, the Workmen's Compensation Commission did not err when it entertained and decided the claim of the employee.

The fact, that the claim for compensation was filed before the Workmen's Compensation Commission almost nine years after disability had commenced, is not a bar to the action of the employee to recover compensation. The liability of the employer to pay compensation under the Workmen's Compensation Act is an obligation created by law, and under paragraph (2) of Article 1144 of the Civil Code of the Philippines the action to enforce this

obligation can be brought within ten years from the time the right of action accrues (Pan-Philippine Corporation vs. Workmen's Compensation Commission, 101 Phil. 66; Luzon Stevedoring Co., Inc., vs. Cesareo de Leon et al., G. R. No. L-9521, November 28, 1959; Manila Railroad Company v. Daniel Perez and The Workmen's Compensation Commission, supra.

IN VIEW OF THE FOREGOING, the instant petition for review should be, as it is hereby, dismissed, and the decision and resolution of the respondent Workmen's Compensation Commission appealed from are affirmed, with costs against petitioner National Development Company.

IT IS SO ORDERED.

Concepcion, C.J., Reyes, Dizon, Bengzon, Sanchez, Castro, Angeles and Fernando, JJ., concur.
Makalintal, J., did not take part.

[1] Quoted from the provisions of Section 2 of Act 3428 before it was amended by Rep. Act 772. Underscoring supplied.

[2] If the claim for compensation is filed in accordance with law.

[3] See also cases cited in this case.

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